

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LETICIA FRANCINE STIDHUM,

Plaintiff,

Case No: 21-cv-07163

v.

161-10 HILLSIDE AUTO AVE, LLC
d/b/a Hillside Auto Outlet, and
HILLSIDE AUTO MALL INC
d/b/a Hillside Auto Mall,
ISHAQUE THANWALLA,
JORY BARON, and
ANDRIS GUZMAN,

Defendants.

**DECLARATION OF JOHN
TROY**

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I, John Troy, declare under penalty of perjury and pursuant to Section 1746 of Title 28 of the United States Code, that:

1. I am admitted to practice before this Court and I represent the Plaintiff LETICIA FRANCINE STIDHUM in this case.

2. I respectfully submit this declaration in opposition to Defendants' Motion for Summary Judgment and to supply this Court with exhibits relevant to its determination of the Motion.

3. Attached hereto are the following exhibits:

Exhibit 1. Affidavit of Leticia Stidhum;

Exhibit 2. Deposition Transcript of Leticia Stidhum;

Exhibit 3. Deposition Transcript of Ishaque Thanwalla;

Exhibit 4. Deposition Transcript of Andris Guzman;

Exhibit 5. Deposition Transcript of Jory Baron;

- Exhibit 6. Deposition Transcript of Corporate Witness Deanna Jennings;
- Exhibit 7. Text Message between Leticia Stidhum and Ishaque Thanwalla;
- Exhibit 8. D1187-D1250 Paystubs of Plaintiff Leticia Stidhum;
- Exhibit 9. Supplemental Response to Interrogatory 7;
- Exhibit 10. D1253-1447 Paystubs of Comparators; and
- Exhibit 11. Jennings Jackson Aff.

4. The salary of Week 34 in Defendants' 56.1 Statement is incorrectly stated as \$300.00 when in fact it is \$200. *See* Exhibit 8 (D1250).

5. Applying the correction of \$200.00 base pay for Week 34, the average total pay from September 4, 2018 to December 17, 2018 is \$1,145.00, while the average commission is \$845.

6. In contrast, the average total pay from December 18, 2018 to January 14, 2019 as \$781.25 and the average commission is \$506.25.

7. The difference in total pay is \$363.75 per week, representing a 31.8% decrease in total pay.

8. The difference in commission is \$338.75, representing a 40% decrease in commission.

9. After accounting for the week of absence (Week 12), during which no salary is earned, the average commission is \$726.82.

10. The average commission earned between December 18, 2018 and January 4, 2019, as stated in Counter-Statement 106 is \$506.25, which is significantly less than the average commission of 726.82.

11. Further, while Defendants failed to provide *any* comparator's weekly commission sheets, claiming that they were lost, the comparators identified as #24, #17, and #20, which each earned a base salary of (\$300) all had an increase in the amount of bonus in the months of December 2018 and January 2019, thus debunking the theory that the sales slowed down during the winter months. (D1253-1447).

ID	11/27/2018- 12/03/2018	12/04/2018- 12/10/2018	12/11/2018- 12/17/2018	12/18/2018- 12/24/2018	12/25/2018- 12/31/2018	01/01/2019- 01/07/2019	01/08/2019- 01/14/2019
Plaintiff	\$ 1,600.00	\$ 825.00	\$ 625.00	\$ 500.00	\$ 350.00	\$ 825.00	\$ 350.00
24	\$ 420.00	\$ 215.00	\$ 495.00	\$ 260.00	\$ 345.00	\$ 535.00	\$ 365.00
17	\$ 290.00	\$ 445.00	\$ 400.00	\$ 445.00	\$ 700.00	\$ 385.00	\$ 490.00
20	\$ 150.00	\$ 225.00	\$ 300.00		\$ 500.00	\$ 150.00	

12. I declare under penalty of perjury and under the laws of the United States that the foregoing statements are true and correct.

Dated: Flushing, NY
February 2, 2024

TROY LAW, PLLC
Attorneys for Plaintiffs

/s/ John Troy
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